

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORDER

Defendant Guadalupe Rojas-Guzman pled guilty to one count of Unlawful Reentry by a Deported, Removed, or Excluded Alien, and the Court sentenced him to 240 months imprisonment. The Court simultaneously sentenced Defendant to 264 months imprisonment for a separate offense charged in Case No. 3:10-cr-109. Defendant appealed both convictions and sentences, and the Court of Appeals affirmed in both cases. Defendant filed a habeas corpus motion in this Court pursuant to 28 U.S.C. § 2255, which the Court denied. Defendant later filed a successive § 2255 motion, which the Court denied, noting that under § 2255(h) Defendant must first obtain permission from the Court of Appeals to file such a motion. Defendant appealed, and the Court of Appeals has remanded for the limited purpose of determining whether a certificate of appealability should issue as to the latter denial. The Court finds that a certificate should not issue, because there is no evidence in the record indicating that a panel of the Court of Appeals has certified a second motion under § 2255(h). Accordingly, this Court has no jurisdiction to address the merits of the motion. *See United States v. Lopez*, 577 F.3d 1053, 1061 (9th Cir. 2009) (citing *Burton v. Stewart*, 549 U.S. 147, 152–53 (2007)).

CONCLUSION

IT IS HEREBY ORDERED that a certificate of appealability is DENIED.

IT IS SO ORDERED.

Dated: This 12th day of December, 2016.

~~ROBERT C. JONES
United States District Judge~~